IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/07/2004

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.(NPD).No.1399 of 2004 and C.R.P.(NPD) No. 1400 of 2004

A.1392 Batlagundu Co-operative
Stores
Rep. by its Special Officer
No.2-1-268 Main Road
Batlagundu
Dindigul District .. Petitioner in
both CRPs

-Vs-

K.S.A.Mohammed Yousuf .. Respondent in
both CRPs

These civil revision petitions are preferred under Sec.25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1908 against the fair and decretal orders passed in R.C.A.Nos.4 and 5 of 2003, dated 23.2.2004, on the file of the Rent Control Appellate Authority cum Principal Sub-Court, Dindigul, confirming the orders in in R.C.O.P.Nos.1 and 4 of 1998 dated 11.4.2003 on the file of the Rent Controller cum District Munsif, Nilakkottai.

!For Petitioner : Mr.Veera Kathiravan

^For Respondent: ---

:COMMON ORDER

Aggrieved over the orders of the Rent Control Appellate Authority, Dindigul, confirming the orders of eviction passed by the Rent Controller, the tenant namely a Cooperative Society, has brought forth these revisions.
2. The respondent, who was the owner of the premises, found in the petitions in R.C.O.P.Nos.1 and 4 of 1998, sought for eviction of the petitioner tenant, who was running a shop in the said premises, on the ground that it required for demolition and reconstruction. The said claim was resisted by the petitioner tenant stating that the landlord demanded a higher rental, and since it was refused, he has come over with a false claim. The Rent Controller on enquiry and on consideration of the materials available, found that it was a fit case for eviction and accordingly, passed the orders. Aggrieved, the petitioner tenant took it on appeals in R.C.A.Nos.1 and 4 of 1998, wherein the orders of the Rent Controller were affirmed. Aggrieved, the tenant has brought forth these two revisions.

3. The learned Counsel appearing for the revision petitioner tenant would submit that both the lower authorities have not considered either the factual or the legal position and have taken an erroneous view; that an Engineer was examined; but, he has relied on an inspection report, which is in respect of the other part of the building, and apart from that, there was no satisfactory evidence to show that the respondent landlord had got the sufficient means to raise the construction in the property, and under the circumstances, the lower authorities should have rejected outright the request of the respondent.

4. After careful consideration of the submissions made by the learned Counsel for the petitioner and scrutiny of the available materials including the orders under challenge, this Court is of the considered opinion that no case is made out even for admission or for a notice to the respondent.

5. Admittedly, the respondent is the landlord of the premises in question, and the revision petitioner is running a shop therein. In order to substantiate the fact that the petitions mentioned premises was 75 years old, the respondent landlord has not only examined himself, but also relied on the reports of the Advocate Commissioner and the Engineer, who made an inspection of the premises. The Advocate Commissioner in his report has stated that the building was 80 years old, while the Engineer has given a report that it was 60 years old. However, from the records available, it would be abundantly clear that the building was more than 60 years old. Apart from that, the report of the Commissioner would clearly show that the cracks in the walls were also found, and thus, it required a demolition.

6. In order to show his bonafide, the petitioner has filed the approved plan issued by the Town Panchayat in respect of the construction in question, which would include not only the properties in the occupation of the petitioner Cooperative Society, but also the other two tenants. So far as the means of the respondent landlord is concerned, he has stated that he is having a property worth Rs.25.00 lakhs, and his wife is having 125 sovereigns of gold. The contention put forth by the learned Counsel for the petitioner that as regards the jewels of the wife of the landlord, no evidence was produced before the lower Court, cannot be countenanced. While the respondent has come forward with the case that he is having sufficient means, and even if at all, it suffers with any evidence, there cannot be any impediment for the respondent to raise sufficient means even by borrowal. Taking into consideration the cumulative facts and circumstances, the Rent Control Appellate Authority has affirmed the orders of the Rent Controller and rightly too. This Court is of the considered opinion that the orders of the lower appellate forum do not warrant any interference in the hands of this Court. Hence, the orders of the lower appellate forum have got to be confirmed.

7. In the result, both the civil revision petitions are dismissed at the admission stage itself. No costs. Taking into consideration that it is a cooperative society, running a shop, three months' time is granted from today for vacating the premises and handing over possession to the respondent.

Index: yes
Internet: yes

To;

1. The Principal Subordinate Judge, Dindigul.
2. The District Munsif, Nilakkottai.

nsv/